

LESSON PLAN

INTRODUCTION

A. Course Title: Sexual Harassment

Instructional Goals:

of

1. This course is designed to provide immediate and long term benefits to the students by communicating department concerns and policies on Sexual Harassment.
2. This course will enable students to identify what constitutes hostile or sexually harassing behavior, reaching problem co-workers who may or may not be aware of their behavior and its implications.
3. This course will educate students on the broad areas concern, the potential for damage to the department, individuals, and relationships and the elements of prevention.
4. This course will help students assess harassing behavior, methods of prevention, discouraging harassment in its "early stages," and guidelines for registering complaints.
5. Finally, it will identify an individual who is engaging in behavior that could actually result in a damaging sexual harassment claim or lawsuit.

Instructional Objectives:

Upon completion of this course, participants will be able to:

1. Define Sexual Harassment.
2. Define the different types of Sexual Harassment, Quid Pro Quo & and Hostile Work environment
3. Understand that sexual harassment may include jokes, vulgar language, sexual innuendoes, pornographic pictures, sexual gestures, physical grabbing or pinching, and other unwelcome or offensive physical

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	<p style="text-align: center;">touching or contact.</p> <ul style="list-style-type: none"> 4. Know that any unwelcome sexual activity tied to employment decisions or benefits is sexual harassment. 5. Recognize that every sexual harassment charge is extremely serious. 6. Realize that men as well as women may be sexually harassed. 7. Comprehend that employees who comply with unwelcome sexual advances can still be victims of sexual harassment. 8. Understand that employees may wait a while before lodging sexual harassment charges. 9. Be familiar with their department's policy on Sexual Harassment and the grievance/complaint process. <p>Instructional Methods:</p> <p>Class lecture with class participation, handout materials, overheads, class exercises, and audio - visual aids.</p> <p>Estimated Time: 2 hours</p> <p>Bibliography and References:</p> <p>29 CFR Part 1604; Guidelines on discrimination because of sex; (1604.11); Sexual Harassment; Equal Employment Opportunity Commission; Revised July 01, 1992;</p> <p>EEOC Case Rulings; Decisions No.81-17, 82-13,83-1,84-1,84-3</p> <p>Title VII of the Civil Rights Act of 1964; (Pub. L. 88-352) (Title VII) as amended, volume 42; United States Code, beginning section 2000e.</p> <p>The Civil Rights Act of 1991 (Pub. L. 102-166) (CRA) which amends several sections of Title VII and revised statutes. Adds a new section following section 1977 (42 U.S.C. 1981) to provide for the recovery of compensatory and punitive damages in cases of intentional violations of Title VII, the Americans with Disabilities Act of 1990, and section 501 of the Rehabilitation Act of 1973.</p> <p>Special Agent Doug Beldon, FBI; Legal counsel and Civil Rights</p>

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<p>This video is recommended for use with this lesson</p>	<p>instructor; Albuquerque, NM <i>Redbook</i> magazine article, 1976</p> <p><i>Working Woman</i> magazine article, 1988</p> <p><i>Gus Bundy v. Jackson; Meritor Savings Bank v. Visnon: 1986: Hall v. construction Co.; Robinson v. Jacksonville Shipyards, Inc.; Waltman v. International Paper Co.; Harris v. Forklift Systems, Inc., Burlington Industries v. Kimberley Ellerth</i></p> <p>Sexual Harassment: Serious Business; Advantage Media; Kantola Productions, LLC; 55 Sunnyside Avenue; Mill Valley, CA 94941; (800) 989-8273; (415) 381-9363; Fax (415) 381-9801</p> <p>Approved by: _____ Date _____</p> <p>Instructor _____ Presentation _____ Date _____</p> <p>Revised: _____</p>

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HO1 Page 4 & 5	<p>Introduction</p> <p>Although sexual harassment has existed in the work for centuries, employers and supervisors are now forced to deal with the problem under penalty of law. It has been mandated, as part of the Title VII Civil Rights Act of 1964, that each and every working person have the legal right to work in an environment free from harassment on the basis of sex.</p>
OHD Page 1	<p>I. Sexual Harassment</p> <p>A. The Equal Employment Opportunity Commission guidelines define sexual harassment as:</p> <ul style="list-style-type: none"> 1. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when: 2. Submission to such conduct by an individual is made explicitly or implicitly a term or condition of employment; 3. Submission to, or rejection of such conduct by an individual is used as the basis for an employment decision; 4. Such conduct has the purpose or effect to interfere with an individual's work performance, or creates a hostile intimidating environment. <p>B. Key word -- “Unwelcome”</p> <ul style="list-style-type: none"> 1. The key word in defining sexual harassment is unwelcome. <ul style="list-style-type: none"> a) When any unwanted, unwelcome, or unsolicited sexual conduct is imposed on a person who regards it as offensive or undesirable, it is sexual harassment. 2. When the person communicates that the conduct is unwelcome, it becomes <u>illegal</u>.
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or

- a) Even if the conduct is implicit in nature-hidden in subtlety or innuendo, as long as it is **unwelcome**, it is unlawful.

II. Types of Sexual Harassment

- A. In practical terms, there are **two** kinds of sexual harassment:

1. *Quid Pro Quo*: Where employment decisions expectations (e.g., hiring decisions, promotions, salary increases, shift or work assignments, performance expectations) are based on an employee's willingness to grant or deny sexual favors. Examples of quid pro quo harassment are:

- a) Demanding sexual favors in exchange for a promotion or a raise.
b) Disciplining or firing a subordinate who ends a romantic relationship.
c) Changing job or performance expectations after a subordinate refuses repeated requests for a date.

2. *Hostile Environment*: Where verbal or nonverbal behavior in the workplace focuses on the sexuality of another person or occurs because of the person's gender, is unwanted or unwelcome and/or is severe or pervasive enough to affect the person's work environment.

The following are examples of behaviors that can create a hostile environment if they are unwanted or uninvited:

- a) Off - color jokes or teasing
b) Comments about body parts or sex life
c) Suggestive pictures, posters, calendars, or cartoons

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<p>OHD Page 9 & 10</p> <p>OHD Page 11 & 12</p>	<ul style="list-style-type: none"> d) Leering, staring, or gestures e) Repeated requests for dates f) Excessive attention in the form of love letters, telephone calls or gift g) Touching-brushes, pats, hugs, shoulder rubs, or pinches <p>B. Sexual Harassment can occur in a variety of circumstances, including but not limited to:</p> <ul style="list-style-type: none"> a) The victim as well as the harasser being a woman or a man. The victim does not have to be of the opposite sex. b) The victim does not have to be the person harassed but could be anyone affected by the offensive conduct. c) Male on male harassment and homosexual harassment. <ul style="list-style-type: none"> 1) A large amount of the total sexual harassment is done by men on men but is not necessarily homosexual. 2) Effeminate men are often exposed to harassment and teasing much more vicious than that of women. In addition to outrageous verbal abuse and pranks, these men often face assault, sabotage, and extraordinary levels of isolation. d) E-mail and internet harassment are becoming more and more prevalent. <p>III. Sexual harassment - Sexual Desire vs. Power</p> <p>A. Sexual harassment may not always be an expression of sexual desire or sexuality, but a problem of inappropriate use of power. The majority of complaints involve subtle forms of harassment;</p>

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<p>OHD Page 13 & 14</p> <p>OHD Page 15 – 17</p>	<ul style="list-style-type: none"> 1. Sexual remarks, 2. Off-hand comments, and 3. Mental groping disguised as social interactions. <p>B. These subtle infringements are the hardest to detect and accept as sexual harassment, but just as damaging and just as illegal.</p> <p>IV. The “What-if-they-were-here?” Principle</p> <p>A. If you have any doubts that your conduct may be considered offensive, ask yourself, “Do I tell the same jokes, or behave the same when my wife or husband is around?” (or any person with whom you have a personal relationship with).</p> <ul style="list-style-type: none"> 1. If your answer is “no,” then you need to re-think your behavior and adjust it accordingly. <p>V. Effects of Sexual Harassment on Others</p> <p>A. Sexual harassment can have an effect on other people who are not directly involved.</p> <p>that</p> <p>complaint</p> <ul style="list-style-type: none"> 1. If an equally qualified person is passed over for a promotion or raise because another person submits to requests for sexual favors, and as a result receives the promotion or raise, individual has been illegally discriminated against and has a right to follow procedures. <p>B. Unchecked sexual harassment can also have less identifiable consequences on others in the workplace.</p> <p>the</p> <ul style="list-style-type: none"> 1. Persons witnessing the harassment may feel same loss or damage as the person toward whom the conduct is directed. 2. Harassment problems that are either ignored or denied by supervisors or management can erode overall morale and productivity.

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<p>OHD Page 18 – 20</p> <p>OHD Page 20 – 23</p>	<ul style="list-style-type: none"> a) Not to mention exposing the organization to possible litigation and embarrassing press. 3. Supervisors or managers ignoring or denying sexual harassment problems may also be held personally responsible and liable. <p>VI. Sexual harassment, The Employer, and the Non-employee.</p> <ul style="list-style-type: none"> A. Sexual harassment can also come from outside the organization. <ul style="list-style-type: none"> 1. Federal guidelines establish the right of employees to be protected from harassment by non-employees. <ul style="list-style-type: none"> a) Employers are responsible for any acts of sexual harassment perpetrated by non-employees while conducting business in the employers environment if the employer is aware of the harassment and takes no measure to correct the conduct. <p>VII. If You Are Sexually Harassed</p> <ul style="list-style-type: none"> A. The following are steps you should take if you are sexually harassed: <ul style="list-style-type: none"> 1. Remain cool and professional. Avoid being overly dramatic. 2. Be direct and candid with the person. Let your feelings be known immediately - you won't tolerate that kind of behavior. 3. Follow your organization's policies/procedures. 4. If the behavior continues, use your agency's grievance procedures and report the incident to your immediate supervisor. Your complaint is much stronger if made while the harassment is going on or shortly after it has ceased.

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<p>At end of this section, video should be shown – “Sexual Harassment: Serious Business” is recommended</p>	<ul style="list-style-type: none"> 5. When reporting the harassment, be prepared to tell all the facts surrounding the incident. <ul style="list-style-type: none"> a) Give the <i>who, what, when, where, and how.</i> 6. Write down the details of the harassment immediately so that you don’t leave anything out. <ul style="list-style-type: none"> a) Sit down, relax and collect your thoughts before you begin your story. b) Be prepared to supply the interviewer with the names of witnesses or others who can support your complaint. c) Put your anger aside and be thorough.
<p>HO1 Page 1 – 3</p> <p>HO1 Page 6 - 11 Class Exercises</p>	<p><u>End of Student lesson</u></p> <p>VIII. Handling The Sexual Harassment Complaint</p> <ul style="list-style-type: none"> A. As a manager or supervisor, how do you handle a complaint? What do you say, what do you do when that person walks in your door and state, “I’ve been sexually harassed and I want to do something about it!” <ul style="list-style-type: none"> 1. It’s a difficult question to answer because it doesn’t happen every day. Sexual harassment is not like many of the other organizational issues. B. There are few styles, theories, or models that exist for dealing with the complaint yet; how you handle the complaint, has a major effect upon how the organizations’ policies on sexual harassment are viewed and accepted by the employees. C. Sexual harassment carries with it a high cost for individuals and organizations for several reasons: <ul style="list-style-type: none"> 1. If left uncorrected, could result in reduced employee morale and high employee turnover.

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<p>due to</p>	<ul style="list-style-type: none"> 2. Litigation adds additional expenses for the organization and the offender. 3. How you handle the complaint has a major effect on the person who has suffered the sexual harassment. D. The complaint: If an employee approaches you wishing to speak “off the record,” notify the employee that as a member of management you must report any issues involving sexual harassment to the Internal Affairs Division or Human Resources Department. <ul style="list-style-type: none"> 1. As a member of your organization’s management team, it is your responsibility to report any observed or reported sexual harassment incidents to the Internal Affairs Division or Human Resources Division of your organization. <ul style="list-style-type: none"> a) <i>Managers who fail to report incidents of sexual harassment are liable and become a risk for your organization.</i> 2. Training of supervisors is essential and should be conducted on a regular basis. <ul style="list-style-type: none"> a) Supervisors who fail to report incidents should be disciplined up to and including termination from their employment with your department. E. The following are steps to take when a person comes to you wishing to lodge a grievance or complaint alleged sexual harassment: <ul style="list-style-type: none"> 1. Assure them that you take them seriously and that action will be taken quickly and discreetly. 2. Notify the employee that the incident will be reported to Internal affairs or the Human Resource Officer. 3. While they give you the details, express no opinion and make no commitment.

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	<ol style="list-style-type: none"><li data-bbox="731 306 1503 411">4. Put aside your personal biases and emotional responses and allow the person to speak candidly.<li data-bbox="731 454 1449 559">5. Advise the complainant that you will need a written statement from him/her as soon as possible.<li data-bbox="731 601 1503 665">6. Practice active listening skills by acknowledging their statements, and feelings<li data-bbox="731 707 1498 770">7. Immediately report the incident to your Internal Affairs Division or Human Resource Officer. <p data-bbox="861 931 1253 967"><i>See attached Model Policy</i></p>

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Sexual Harassment (Model Policy/Procedure)

Harassment in the Work Place

It is the policy of *(your organization/company)* to maintain a work environment free of sexual and discriminatory harassment of the basis of race, gender, national origin, religion, age, height, weight, handicap, or any other protected classification as defined by federal and/or state law. *(Your organization/company)* will not tolerate harassment of its employees by supervisors, co-workers, or others; nor will harassment of non-employees by any *(your company/organization)* employee be condoned.

All employees are expected to conduct themselves so as to maintain a work environment free of harassment. Harassment by an employee is a serious form of misconduct for which an employee will be disciplined, up to and including termination.

Additionally, no retaliation or reprisals will be tolerated against any individual who complains of, reports, or participates in the investigation of any incident of alleged harassment.

Definitions:

Sexual Harassment:

Refers to unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- Submission to such conduct is made either an explicit or implicit term or condition of employment;
- Submission to or rejection of such conduct is used as a basis for an employment decision affecting the harassed employee; or
- Such conduct has the purpose or effect of interfering with an employee's work performance or creating an intimidating, hostile, or offensive work environment. Conduct, statements or displayed materials, whether oral, written, printed, or graphically depicted may be considered sexual harassment under this procedure.

Discriminatory Harassment:

Harassment may take the form of verbal or physical conduct, including

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statements, or written or displayed materials, directed against any person, on the basis of that person's race, gender, national origin, age, religion, height, weight, handicap, or any other protected classification as defined by federal or state law.

Where such conduct has the purpose or effect of interfering with the person's work performance, creating an intimidating, hostile, or offensive work environment, or causing or aggravating tension or animosity between persons of different racial, ethnic, gender, religious groups; or other protected classifications of persons as defined by federal or state law, it will be governed by and investigated in accordance with this procedure.

Procedure

Any employee who believes he/she has been subject to harassment covered under this procedure should report the incident immediately to his/her immediate supervisor.

Any (*supervisor/ manager*) who receives a complaint or who otherwise becomes aware of alleged harassment, must notify the appropriate (*Internal Affairs/Human Resource*) Officer. The (*Internal Affairs/Human Resource*) Officer will conduct a prompt and confidential investigation.

The investigative process will include (at least), the following steps:

- A. Interview with the complainant to obtain information concerning the incident and attempt to determine what action will resolve the matter to the satisfaction of the complainant. **No promise of any kind to pursue a given course of action will be given.**
 - 1. Inform complainant that confidentiality of his/her identity will be maintained to the extent possible, but that identification may become necessary.
 - 2. Request from the complainant a prepared written statement describing the incident which will also be kept confidential unless it becomes necessary to pursue formal action.
 - 3. Assure the complainant the matter will be pursued and that (*Internal Affairs/Human Resource*) will remain in contact with him/her.
- B. Evaluate the complaint and request the services of any other (*Your organization/company*) personnel as needed to assist in the investigation of the matter. All communications will be strictly confidential. Each person will make a handwritten, signed and dated statement recording all meetings and discussions.

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- C. After a course of action has been determined, the individual named as having been the harassing party will be notified of the existence of the complaint and will be interviewed by his/her immediate supervisor and the (*Internal Affairs/Human Resource*) Officer. (An appropriate substitute for the immediate supervisor may be selected by (*Internal Affairs/Human Resource*)).
- After all information is obtained, a formal written report will be prepared.
1. The (*internal Affairs/Human Resource*) Officer will confer with the subject's supervisor and determine a recommendation for the appropriate action. This action may consist of dismissing the complaint, a written reprimand, suspension without pay, or any formal disciplinary action up to and including termination.
 2. The (*Internal Affairs/Human Resource*) Officer and the subject's supervisor will notify the subject of the recommendation in this matter. (*Internal Affairs/Human Resource*) will notify the complainant.

IX. Commonly Asked Questions

Q: *Don't most people filing harassment complaints and taking legal action just want financial damages, or money?*

A: It's interesting to note that the majority of people who have been harassed quit or transfer out of the offensive work environment. If they do take action, studies show that the majority of these people just want the harassment to stop. More and more people are filing complaints with the employee-rights agencies like the **EEOC** (Equal Employment Opportunity Commission).

Because employers fail to take action. For the most part, people in the work force just want the inappropriate behavior to stop.

Q: *As a supervisor, why should you get involved?*

A: Courts have ruled that companies/organizations/agencies exist through the acts of their agents, the supervisor and management staff. Therefore, employer responsibility, and liability rests with these people. In several cases, the courts have found the supervisor liable for not taking action on a complaint. It is not only the legal duty of the supervisor or manager to see that sexual harassment complaints are taken seriously and action is taken to resolve the problem, but a moral obligation as well. Your organization should discipline up to and including termination any member of management failing to report sexual harassment issues of which they are aware. Awareness may result from official complaint observance of sexually harassing activity.

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Q: *How can sexual harassment be stopped?*

A: The best method to stop harassment is to prevent it from happening. Prevention begins with an attitude communicated by the management that sexual harassment in any form will not be tolerated. You must

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	<p>affirmatively raise the subject in the workplace, adopt a policy prohibiting the practice and establish a confidential complaint process.</p> <p>Education: An organization must educate managers, supervisors, and employees on what sexual harassment is and what it can cost the organization. Each manager or supervisor must be prepared to respond to complaints and take action. Each manager and supervisor must also “model” appropriate workplace behavior.</p> <p>Q. <i>Will an internal personnel policy insulate an employer from charges of sexual harassment when the victim’s supervisor is the one doing the harassing?</i></p> <p>A. No... No matter what the employer's policy, the employer is liable for any supervisory actions that affect the victim's employment status such as hiring, firing, promotions, or pay.</p>